

IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. DA-09-0510

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JAN 21 2010
Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**STATE OF MONTANA, EX REL.
DEPARTMENT OF
ENVIRONMENTAL QUALITY,**

Plaintiff/Appellant,

vs.

BNSF RAILWAY COMPANY,

Defendant/Appellee/Cross Appellant.

**SWANK ENTERPRISES'
WITHDRAWAL OF APPEAL**

NOTICE is given that SWANK ENTERPRISES, the Appellant above-named and who is a Defendant in that cause of action filed in the First Judicial District, in and for the County of Lewis and Clark, as Cause No. BDV-2004-596, hereby withdraws its appeal to the Supreme Court of the State of

Montana from the final judgment or order entered in such action on the 10th day of February, 2009.

Dated this 11th day of January, 2010.

SWANK ENTERPRISES

By: Dean Swank
Dean Swank

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By: Paul A. Sandry
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CERTIFICATE OF SERVICE

I hereby certify that on the ^{14th}~~11th~~ day of January, 2010 I filed a true and accurate copy of the foregoing SWANK ENTERPRISES' WITHDRAWAL OF APPEAL with the Clerk of the Montana Supreme Court; and that I served true and accurate copies of the foregoing SWANK ENTERPRISES' WITHDRAWAL OF APPEAL upon the Clerk of the District Court, each attorney of record, and each

party not represented by an attorney in the above-referenced District Court action,
by depositing same in the US Mail, postage prepaid, to wit:

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